1946 **File No.** Emergency Provisions II/46

Legal Department

B **BRANCH** 92(15)/1946

Subject:— Rules and Notifications under the Emergency Provisions (Continuance) Ordinance, 1946.

File No. Emergency Provisions II/46

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Clause (i) of sub-section (1) of section 2 of the E ergency Provisions (Continuance) O dinance, 1946 (Ordinance No. XX of 1946), provides that the provisions of the Defence of India Rules mentioned in the Schedule appended to the said Ordinance, shall continue in force and have ef ect subject to the modifications specified in that Schedule.

Clause (ii) of the said sub-section (1) also provides that any order or other instrument made under or in pursuance of any of the said provisions and in force immediately before the expiry of the Defence of India Act, 1939 (XXXV of 1939), shall continue in force so far as consistent with the provisions as continued in force by section 2 and be deemed to be made under the provisions so continued in force. Rule 81A of the Defence of India Rules is continued in force, with the following modifications:-

(a) For the words "Central Government " wherever they occur in the rule, the words "appropriate Government " shall be substituted .

(b) In sub-rule (1) for the words "securing the defence of British India, the Public safety, the maintenance of Public order or the efficient prosecution of the war", the words "securing the public safety or the maintenance of public order" shall be substituted.

(c) In sub-rule (5), after the words "In this rule" the following shall be inserted:-

"The expression 'appropriate Government" shall mean, in relation to trade disputes concerning any industry, business or undertaking carried on by the Central Government or by a railway company operating a Federal Railway and trade disputes concerning a mine or an oilfield or the port authority of a major port, the Central Government, and in relation to any other trade disputes, the Provincial Government; and ".

Thus, under the expression so far as consistent

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with the provisions continued in force used in section 2(1)(ii) of Ordinance No. XX of 1946, it is clear that by virtue of the said clause (ii) the Government of India order dated the 19th December 1945, issued under rule 81A before its amendment by the said ordinance No. XX of 1946, will remain in force after the expiry of the Defence of India Act, 1939, on 30th September 1946, in relation to trade disputes in respect of which the Provincial Government is the appropriate Government, that is to say, in relation to trade dispute other than those concerning any industry, business or undertaking carried on by the Central Government of by a Railway company operating a Federal Railway and those concerning a mine, or an oilfield or the port authority of a major port, in respect of which the Central Government is the" appropriate Gocernment" under rule 81A, as amended by Ordinance No. XX of 1946. Also,under the amended rule 81A, it will be possible to amend the Government of India order of 19th December 1945, for securing the public safety or the maintenance of public order or for maintaning supplies and services essential to the life of the community. For the same reasons Government Notification, Political and Services Department No. 6226/34 dated the 23rd January 1946, will continue in force, in respect of trade disputes in respect of which the Provincial Government is the "appropriate Government". It is, therefore, not legally necessary to issue a fresh order at page 3 ante, under the amended rule 81A, as proposed by the Commissioner of Labour.

Sd/- D.V.Vyas
o.c. Remembrancer of Legal Affairs.

U.R. to P. S.D. No 9175, dated the 17th December 1946

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